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DEPARTMENT FOR EUR/AGS, EUR/PGI, S/CT

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SUBJECT: RAF Parole/Clemency Bids Divide Body Politic, Legal System;  
Stuttgart Court to Rule Soon

Sensitive but unclassified; not for internet distribution.

¶1. (SBU) SUMMARY: In the controversial parole bid of German "Red Army Faction" left-wing terrorist Brigitte Mohnhaupt -- a case with implications for other incarcerated RAF members -- the Federal Prosecutor's Office in Karlsruhe has recommended that the Stuttgart Regional Court grant Mohnhaupt parole starting March 26. The Stuttgart court is expected to issue a ruling by mid-February. In a related case, Christian Klar (convicted with Mohnhaupt but eligible for parole only in 2009) has petitioned Federal President Horst Koehler for a pardon. While state politicians, many victims' relatives, and most polled Germans oppose releasing RAF members, many German legal experts argue that Mohnhaupt and Klar have been held considerably longer than other murder convicts and should be subject to the same consideration for release. The case highlights the German legal system's conundrum in punishing terrorism above and beyond "common" crime. END SUMMARY.

¶2. (U) Mohnhaupt (imprisoned in Aichach, Bavaria) und Klar (held in Bruchsal, Baden-Wuerttemberg) were leading RAF organizers and operatives in the 1970s and early 1980s (this is Mohnhaupt's second prison term, having returned to the RAF immediately after serving a five-year term in the mid-1970s). In 1977, both were involved in the assassinations of Federal Prosecutor Siegfried Buback, the President of the Federal Employers' Association Hans-Martin Schleyer, and Dresdner Bank CEO Juergen Ponto; Mohnhaupt was involved in a 1981 rocket attack which injured then-US Army Europe Commanding General Frederick James Kroesen. In 1985, Mohnhaupt and Klar were convicted and sentenced to five life sentences. Neither has expressed remorse.

¶3. (SBU) In 2006, the Stuttgart Regional Court declined Mohnhaupt's first parole bid, ruling that she should remain in prison at least until March 26, 2007 due to the "special burden of guilt" in her crimes. Concerning Klar, the Stuttgart Court ruled in 1997 that he should not be released before January 2009.

¶4. (SBU) Mohnhaupt appears to have a solid chance at gaining parole, since the Federal Prosecutor's office in Karlsruhe supports early release in this case. A representative at the Federal Prosecutor's Office told us informally that anything but parole for Mohnhaupt would be a surprise, opining that life sentences are routinely commuted at fifteen years (Mohnhaupt has served more than twenty years) as long as the prisoner no longer poses a threat to German society. The Stuttgart Regional Court is expected to rule during the first two weeks of February.

¶5. (SBU) The early release bid by Klar (eligible for parole in 2009) is more complicated. After Klar wrote Koehler requesting a presidential pardon, the Baden-Wuerttemberg (B-W) Ministry of Justice asked Freiburg-based criminal expert Helmut Kury for an expert opinion. After a week of interviewing Klar, Kury made a positive recommendation and said that authorities should start by

easing the conditions of Klar's imprisonment.

¶6. (SBU) Conservative state authorities in B-W and Hessen (where many of the RAF attacks took place) reject early release for Mohnhaupt and Klar -- as do some Bavarian officials. For instance, B-W CDU/Christian Democratic caucus chief Stefan Mappus criticized Kury's report on Klar and the notion of pardoning a terrorist who does not regret his deeds, which would send the wrong signal to German society and to the family members of victims. Along similar lines, Hessen Interior Minister Volker Bouffier (CDU) rejected the idea of parole for Mohnhaupt. B-W Minister President Guenther Oettinger (CDU) advised caution concerning Klar but said he is convinced that President Koehler will come to the right decision. In a Spiegel poll, 71 percent of Germans said they oppose pardoning Klar.

¶7. (U) In contrast, a number of liberal and left-leaning German politicians, including former federal justice minister Klaus Kinkel (FDP), are in favor of leniency for Mohnhaupt and Klar. The B-W Green party, for instance, supports early release for Klar. Thomas Oelymayer, the Greens' spokesperson for legal issues, pointed out that remorse is not a necessary condition for a presidential pardon. Wolfgang Hoffmann-Riem, judge at the Federal Constitutional Court in Karlsruhe, publicly advocated a pardon for Klar in spite of victim/family sentiments in the case, portraying the pardon as a means for Klar to new a turn leaf and for German society to close a chapter in its history.

Hogefeld Case Re-Emerges  
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¶8. (U) The debate over Mohnhaupt and Klar has also cast attention on the case of Birgit Hogefeld(imprisoned near Frankfurt), another member of the RAF's inner circle arrested in 1993 and convicted for

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her role in the murder of U.S. soldier Edward Pimental and in a bomb attack on Rhein-Main Airbase in which two people were killed and eleven were injured. Hogefeld is the only RAF member currently in prison who has expressed regret and sorrow, calling the soldier's murder a gruesome and inhuman mistake. In 1992, she called on the RAF to disband (which it did in 1998). The Federal Court of Justice confirmed her verdict in 1999, making 2012 Hogefeld's earliest parole date. Hogefeld and her lawyers have not commented on the current debate, but observers say that any pardon for Klar (who has never shown regret) would imply that Hogefeld should be pardoned as well.

¶9. Consulate General Munich and Embassy Berlin contributed to this cable.

POWELL